

APPEAL NO. 180458
FILED MARCH 29, 2018

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 16, 2018, in (city), Texas, with (administrative law judge) presiding as the administrative law judge (ALJ). The ALJ resolved the disputed issues by deciding that: (1) the compensable injury of (date of injury), does not extend to the cervical spine sprain/strain, post-concussive syndrome, headaches, or unspecified injury to the right hip and right knee; (2) the appellant (claimant) reached maximum medical improvement (MMI) on March 3, 2016; and (3) the claimant's impairment rating (IR) is zero percent. The claimant appealed, disputing the ALJ's determinations of extent of injury, MMI and IR. The claimant contends that the evidence established the compensable injury extends to the disputed conditions and she has not reached MMI. The respondent (carrier) responded, urging affirmance of the disputed extent of injury, MMI, and IR determinations.

DECISION

Affirmed in part and reversed and rendered in part.

The parties stipulated, in part, that: the claimant sustained a compensable injury on (date of injury); the carrier has accepted a compensable injury in the form of a head contusion and lumbar sprain/strain; and that (Dr. B) was appointed by the Texas Department of Insurance, Division of Workers' Compensation (Division) to address MMI, IR, and extent of injury. The claimant testified that she was injured when she slipped and fell on the floor, hitting her head on a filing cabinet.

The ALJ is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence. *Texas Employers Insurance Association v. Campos*, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). As an appellate reviewing tribunal, the Appeals Panel will not disturb challenged factual findings of an ALJ absent legal error, unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. *Cain v. Bain*, 709 S.W.2d 175, 176 (Tex. 1986); *In re King's Estate*, 150 Tex. 662, 244 S.W.2d 660 (1951).

In reviewing a "great weight" challenge, we must examine the entire record to determine if: (1) there is only "slight" evidence to support the finding; (2) the finding is so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust; or (3) the great weight and preponderance of the evidence supports its nonexistence. *See Cain, supra*.

EXTENT OF INJURY

The ALJ's determination that the compensable injury of (date of injury), does not extend to the cervical spine sprain/strain, post-concussive syndrome, or unspecified injury to the right hip and right knee is supported by sufficient evidence and is affirmed.

The ALJ determined that the (date of injury), compensable injury does not extend to headaches. The compensable injury includes a head contusion and it was undisputed that the claimant fell striking her head. A medical record in evidence dated (date of injury), the date of injury, documents that the claimant presented with head pain and that she hit her head when she fell. A CT of the head was performed based on acute head trauma suffered by the claimant. The CT gave as an impression that the brain appears normal. An acute head injury was among the diagnoses given in the claimant's assessment in medical records dated (date of injury). Numerous medical records in evidence document the claimant's headaches. In her discussion of the evidence, the ALJ noted that the designated doctor stated the claimant's minor head contusion would not result in ongoing headaches, and this diagnosis should not be considered compensable. However, we note that the disputed condition at issue was simply headaches, without the distinction or limitation used by the designated doctor.

Under the facts of this case as discussed above, the ALJ's determination that the compensable injury does not extend to headaches is so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust. Accordingly, we reverse that portion of the ALJ's determination that the compensable injury of (date of injury), does not extend to headaches and render a new decision that the compensable injury of (date of injury), does extend to headaches.

MMI/IR

The ALJ's determinations that the claimant reached MMI on March 3, 2016, and that the claimant's IR is zero percent as certified by the designated doctor are supported by sufficient evidence and are affirmed. The designated doctor noted that consideration of headaches would not change his opinion regarding the MMI date of March 3, 2016, or the claimant's IR of zero percent.

SUMMARY

We affirm the ALJ's determination that the compensable injury of (date of injury), does not extend to the cervical spine sprain/strain, post-concussive syndrome or unspecified injury to the right hip and right knee.

We affirm the ALJ's determination that the claimant reached MMI on March 3, 2016.

We affirm the ALJ's determination that the claimant's IR is zero percent.

We reverse that portion of the ALJ's extent-of-injury determination that the compensable injury of (date of injury), does not extend to headaches and we render a new decision that the compensable injury of (date of injury), extends to headaches.

The true corporate name of the insurance carrier is **LIBERTY MUTUAL FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
211 EAST 7TH STREET, SUITE 620
AUSTIN, TEXAS 78701.**

Margaret L. Turner
Appeals Judge

CONCUR:

K. Eugene Kraft
Appeals Judge

Carisa Space-Beam
Appeals Judge